

EXHIBIT K

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FILED
 LOS ANGELES SUPERIOR COURT

JUN 11 2003

JOHN A. CLARKE, CLERK
 BY C. L. CLARKE
 BY E. L. SOLEMAN, DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF LOS ANGELES

11 RALPH MOCK and GLORIA MOCK,

12 Plaintiffs,

13 v.

14 LIBERTY MUTUAL INSURANCE
 15 COMPANY; KINGSTON
 16 RECONSTRUCTION AND
 FLOORING, INC.; and DOES 1
 through 100, inclusive,

17 Defendants.

CASE NO.

BC297264

COMPLAINT FOR DAMAGES

Case assigned to
 Judge

Owen Lee Kwong

20 COME NOW, plaintiffs GLORIA MOCK and RALPH MOCK, insureds of defendant
 21 LIBERTY MUTUAL INSURANCE COMPANY, COMPLAINING OF DEFENDANTS
 22 AS FOLLOWS:

23 **PRELIMINARY ALLEGATIONS**

- 24 1. Plaintiffs are individuals and at all times relevant to this lawsuit residents of
 25 the City and County of Los Angeles, California.
 26 2. Plaintiffs do not know the true names and capacities of defendants sued herein
 27 as Does 1-100, inclusive, and therefore sues said defendants by such fictitious names
 28 pursuant to California Code of Civil Procedure Section 474. Plaintiffs will amend this

CIT/CASE: 03-297264 LSH/DEB
 RECEIPT #: CCH29311012
 DATE PAID: 06/11/03 01:13:50
 PAYMENT: 124.50
 RECEIVER:
 CHECK: 222.50
 CASH: 0.00
 CHARGE:
 CREDIT:

Complaint for Damages

1 Complaint to state the true names and capacities of the fictitiously named defendants when
 2 the same are ascertained. Plaintiffs are informed and believe and based thereon allege that
 3 each of the fictitiously named defendants is legally responsible in some manner for the
 4 events and damages alleged in this Complaint under the causes of action stated herein.

5 3. At all times relevant to this lawsuit, defendant LIBERTY MUTUAL FIRE
 6 INSURANCE COMPANY and DOES 1-100 (hereinafter "defendant" or "LIBERTY
 7 MUTUAL") was and is an insurance company which was and is authorized to transact and
 8 conduct and was/is transacting and conducting the business of insurance in the State of
 9 California, and specifically, within this judicial district.

10 4. At all times relevant to this lawsuit, defendant KINGSTON
 11 RECONSTRUCTION AND FLOORING, INC. and DOES 1-100 (hereinafter "defendant"
 12 or "KINGSTON") was and is a construction/catastrophe repair company incorporated and
 13 residing in the State of California and doing business within this judicial district.

14 5. Plaintiffs are informed and believe and based thereon allege that at all times
 15 mentioned herein, each of the defendants were agent, partner, joint venturer, associate
 16 and/or employee of one or more of the other defendants and were acting in the course and
 17 scope of such agency, partnership, joint venture, association and/or employment when the
 18 acts giving rise to the causes of action occurred.

19 **FIRST CAUSE OF ACTION:**

20 **BREACH OF CONTRACT**

21 **[Against Defendant LIBERTY MUTUAL FIRE INSURANCE**
 22 **COMPANY and Does 1-100]**

23 6. Paragraphs 1 through 5 are hereby incorporated by reference as if fully set
 24 forth herein.

25 7. On or about July 14, 2001, defendant LIBERTY MUTUAL issued
 26 LIBERTYGUARD DELUXE HOMEOWNERS POLICY number H32-261-967405-001 2
 27 to plaintiffs GLORIA AND RALPH MOCK, insureds, and covering plaintiffs and their
 28 Dwelling/Residence Premises which is located at 23725 Sylvan Street, Woodland Hills.

1 California 91364

2 8. The defendant's policy did contain and/or was intended to contain insuring
3 agreements providing the following or substantially similar policy language:

4 "COVERAGE A - DWELLING and COVERAGE B - OTHER
5 STRUCTURES

6 We insure against risk of direct loss to property described in
7 Coverages A and B only if that loss is a physical loss to
8 property."

9 9. On or about August 8, 2000 and again on January 8, 2002, plaintiffs sustained
10 covered losses to their home in the form of severe structural and cosmetic damage ("direct
11 loss to property") resulting from a burst and leaking water pipe, the second and subject loss
12 resulting in serious consequential property damage to plaintiffs' residence.

13 10. Plaintiffs tendered their covered claim for benefits to defendant in a timely
14 manner and have complied with all conditions precedent to coverage. Plaintiffs have
15 cooperated fully in the investigation of the loss and defendant has not been prejudiced in any
16 manner whatsoever. No valid defense nor excuse to full payment of this covered claim
17 exists.

18 11. On or around August 8, 2000, Plaintiffs discovered a possible leak in their
19 shower wall which caused moderate consequential damage to their insured home. A claim
20 was submitted to defendant LIBERTY MUTUAL, the claim was honored, contractors were
21 hired to repair the damage, but no leak detection test was performed, as should have been.
22 That claim was handled by adjuster Richard Bennett of LIBERTY MUTUAL.

23 12. On or around January 8, 2002, Plaintiffs discovered a leak in their hot water
24 line below the slab under the heating and air unit and which was causing consequential
25 property damage to their insured dwelling ("direct loss to property"). A claim was
26 submitted to defendant LIBERTY MUTUAL which in turn assigned the risk to adjuster
27 Richard Bennett, the same adjuster who had handled loss #1.

28 13. Adjuster Bennett, on behalf of defendant LIBERTY MUTUAL, appeared on

1 the scene in a timely manner and immediately began adjusting and handling plaintiffs' claim
2 on behalf of defendant LIBERTY MUTUAL. Adjuster Bennett was at all times acting
3 within the course of scope of his authority as agent of defendant LIBERTY MUTUAL, on
4 behalf of and for the direct benefit of defendant LIBERTY MUTUAL.

5 14. Adjuster Bennett recognized that the loss was serious and that the damage was
6 extensive. Bennett immediately offered a check in the amount of \$200 for emergency
7 services and another subsequent check for two months of Additional Living Expense benefit
8 totaling \$6,251 for the period of 4/22-6/21 which was appropriate under the circumstances
9 and which led plaintiffs to believe that their claim was going to be handled fairly by
10 LIBERTY MUTUAL. Bennett offered the services of personnel to pack plaintiffs' contents
11 as it was apparent that the premises would have to be vacated to accommodate the major
12 construction efforts which would be required to repair this damaged dwelling. Plaintiffs
13 declined that offer in an effort to be reasonable and to save LIBERTY MUTUAL money.
14

15 15. Adjuster Bennett informed the plaintiffs that LIBERTY MUTUAL was going
16 to delegate and assign the task of assessing the extent of the loss and repairing plaintiffs
17 home to an outfit known as KINGSTON RECONSTRUCTION & FLOORING, INC.
18 ("KINGSTON") Bennett assured the plaintiffs that "LIBERTY MUTUAL uses KINGSTON
19 all the time, they're great". LIBERTY MUTUAL even went further in backing up their oral
20 assurances in providing a written guaranty of KINGSTON's work for a period of three
21 years. The plaintiffs felt assured that KINGSTON would perform as LIBERTY MUTUAL
22 had promised. LIBERTY MUTUAL in fact did retain KINGSTON to perform LIBERTY
23 MUTUAL's non-delegable duty to investigate and assess the nature and extent of the loss
24 and to implement corresponding repairs. KINGSTON in effect determined what contractual
25 benefits were owed for LIBERTY MUTUAL in fulfillment of LIBERTY MUTUAL's non-
26 delegable duty to investigate and search for coverage on behalf of its insureds.

27 16. Shortly thereafter, KINGSTON appeared at the insureds' property, assessed
28 the loss and prepared an estimate for repair on behalf of defendant LIBERTY MUTUAL in

1 fulfillment of LIBERTY MUTUAL's non-delegable duty. KINGSTON's estimate and
2 proposed repair were in the neighborhood of \$156,000 thus confirming the extensive nature
3 of this loss.

4 17. In and around March 2002, KINGSTON commenced construction in
5 fulfillment of LIBERTY MUTUAL's duty to indemnify for this covered loss. KINGSTON
6 and LIBERTY MUTUAL were in effect joint venturers on this claim and project, each
7 intending to fulfill the same goal: repair of the Mock's residence. LIBERTY MUTUAL
8 acting in fulfillment of its duty as insurer to its insured, the Mocks, and KINGSTON, acting
9 on behalf of and in concert with LIBERTY MUTUAL in exchange for monetary
10 remuneration from LIBERTY MUTUAL. LIBERTY MUTUAL and KINGSTON told the
11 Mocks that the construction repairs would be completed in four months.

12 18. Plaintiffs are Union Set Painters and members of Local 729 who paint movie
13 sets for a living, often on location. At the time when construction was originally set to
14 commence (approximately February 2002) plaintiffs informed LIBERTY MUTUAL and
15 KINGSTON that plaintiffs were scheduled to work on a prolonged production in Austin,
16 Texas beginning that summer. LIBERTY MUTUAL and KINGSTON indicated that this
17 would pose no problems whatsoever. Plaintiffs provided contact numbers, including cell
18 numbers with 24/7 accessibility and voice mail and which provided continual access by
19 LIBERTY MUTUAL and KINGSTON in the event that plaintiffs needed to be contacted.
20 In addition, plaintiffs had a local relative in the neighborhood of the insured property who
21 was available in the event that a live contact or inspection was required and communicated
22 the same to LIBERTY MUTUAL and KINGSTON. Plaintiffs were also personally ready
23 and willing to return to Los Angeles in the event that a personal meeting or inspection was
24 required or requested. Neither LIBERTY MUTUAL nor KINGSTON expressed any
25 concern with this arrangement, nor were any difficulties presented at any time due to
26 plaintiffs' work schedule and location. The plaintiffs out of town work did not commence
27 until several months later and in any event was not a factor in any manner in the chain of
28 causation of the damages alleged in this lawsuit. The job and claim should have been

1 concluded before plaintiffs' summer departure for work.

2 19. In early March 2002, the hardwood floors and carpeting were removed from
3 the home. The job and claim then sat for an entire month with no progress and no
4 monitoring of progress by LIBERTY MUTUAL. In April 2002, the house remained sitting.
5 KINGSTON represented that the delay was in waiting for Tim Welch of EGS Engineering
6 to inspect the slab before removing the same. Proposals were not submitted by KINGSTON
7 for the completion of the job until mid-May of 2002. Again, KINGSTON was in effect
8 performing LIBERTY MUTUAL's duty to assess the loss and indemnify for the same. In
9 late May early June, the slab was finally removed.

10 20. On May 21, 2002, LIBERTY MUTUAL cancelled plaintiffs' insurance
11 coverage. The home was uninsurable at this juncture due to its mid-claim/mid-construction
12 condition.

13 21. LIBERTY MUTUAL Adjuster Richard Bennett soon developed an unusually
14 keen interest in Mrs. Gloria Mock which went beyond what rational observers would
15 classify as a genuine interest in providing attentive claim service. Ms. Mock was continually
16 peppered with calls to her cell phone from adjuster Bennett, often with a spur of the moment
17 proposals for personal lunch meetings, etc., ostensibly to "discuss her claim", but apparently
18 with some other agenda in mind. The interest and attention clearly exceeded normal
19 business standards and decorum.

20 22. At the conclusion of the first two-month ALE period for which an approximate
21 \$6,000 advance payment had been made by LIBERTY MUTUAL/Bennett, adjuster Bennett
22 proposed to plaintiff Gloria Mock that an additional \$2,000 be added to her next ALE
23 benefit check. In exchange, LIBERTY MUTUAL's Bennett proposed that Ms. Mock kick
24 back funds to Mr. Bennett to fund his purchase of a Harley Davidson trailer which he
25 desired to attain. Ms. Mock declined the proposal. Mr. Bennett also charged \$7,325.25 for
26 Bekins Moving & Storage to this claim when in fact Bekins was never even involved on the
27 claim in any capacity. The plaintiffs personally moved all of their contents to a storage
28 container situated in their driveway.

1 23. Thereafter, LIBERTY MUTUAL became delinquent in its payment of ALE
2 for months five and six. Plaintiff Gloria Mock attempted to contact adjuster Bennett on or
3 around June 21st and on Friday, June 28th re: a Tuesday appointment. Ms. Mock ultimately
4 reached Michael Malley at the controlling Sacramento office who informed Ms. Mock that
5 he had her file in his possession that Mr. Bennett had been terminated by LIBERTY
6 MUTUAL, and that Mr. Malley was going to personally handle the Mock claim to its
7 efficient and proper conclusion. During that very phone conversation with Mr. Malley, Ms.
8 Mock's cell phone beeped on "call waiting" indicating that another call was coming through.
9 Ms. Mock fielded the call which was from none other than adjuster Bennett who informed
10 that "he needed to set up a meeting to discuss her claim". Ms. Mock then transferred back
11 to Mr. Malley's line and indicated to Mr. Malley: "You may be interested to know that your
12 insurance adjuster, Mr. Bennett, is on the other line right this second and is proposing that
13 I meet him to discuss my claim".

14 24. At this juncture, the claim was six months old and LIBERTY MUTUAL's
15 management was on direct notice that its insured had been subjected to obviously
16 inappropriate conduct perpetrated by LIBERTY MUTUAL's adjuster and that the claim was
17 obviously in potential jeopardy. The ALE benefits were in arrears. The claim adjustment
18 and construction were grossly behind schedule due to complete non-supervision of the claim
19 by LIBERTY MUTUAL. Further, in reviewing the file, Mr. Malley noted and
20 communicated to Ms. Mock "I see that you are staying in a Century Twenty One relocation
21 for your ALE". Ms. Mock responded by correcting Mr. Malley and informing him that she
22 was in fact staying in the Hilton Hotel, per adjuster Bennett's instructions, and that the
23 Mocks had been paying the hotel out of pocket to be reimbursed on an incurred basis. The
24 claim entry reflected a direct pay situation, obviously to facilitate some form of
25 misappropriation of funds by Bennett. LIBERTY MUTUAL management was acutely aware
26 of impropriety on the Mock claim at this juncture.

27 25. In this same telephonic conversation, Ms. Mock demanded to Mr. Malley that
28 LIBERTY MUTUAL send a live body down to Los Angeles to assess and supervise this

1 claim because nobody had been doing so and LIBERTY MUTUAL was merely issuing
2 checks to its delegatee, KINGSTON, without ensuring that KINGSTON was in fact
3 performing as required under the facts and circumstances of the claim. Mr. Malley
4 indicated that he was going to retain a company in Simi Valley that LIBERTY MUTUAL
5 does business with to oversee KINGSTON and the claim.

6 26. Following the July meeting, with the slab of the home removed, the home sat
7 virtually untouched for several months. Mr. Mock left for his job in Austin, Ms. Mock
8 remained local. In September of 2002, Ms. Mock left for Austin, Texas to work with her
9 husband. Ms. Mock spoke with Mr. Malley on numerous occasions between September
10 2002 and February 200 via cell phone from her job in Texas in an attempt to get LIBERTY
11 MUTUAL to perform and supervise KINGSTON. During this same time frame,
12 KINGSTON's foreman, Tim McCarthy, on behalf of LIBERTY MUTUAL and
13 KINGSTON, repeatedly informed Ms. Mock that everything was going great on the claim
14 and construction job, that she was going to love the home when she saw it and that "the guys
15 were working on it right now". None of this was true as KINGSTON was doing nothing
16 on the job and LIBERTY MUTUAL was doing nothing on the claim.

17 27. In and around September of 2002, LIBERTY MUTUAL/Malley passed the file
18 to LIBERTY MUTUAL Manager Brian Cahill of the Sacramento office. Ms. Mock was
19 then required to start from scratch re-living and re-explaining all of the sordid and detailed
20 events of her claim to date. This ordeal was extremely frustrating and demoralizing to the
21 Mocks. LIBERTY MUTUAL/Cahill assured the Mocks that everything was going to be
22 taken care of. KINGSTON concurrently assured the Mocks that the entire job would be
23 done for the holidays. The Mocks returned from Austin in late December for Christmas and
24 were devastated to encounter a completely unfinished home which appeared to be in worse
25 shape than before the project started. The home was nowhere near completion. There was
26 no drywall installed. The insulation was not in. The electrical was not complete. The
27 Mocks were devastated and depressed at the status of their home, particularly in that they
28 had looked forward to spending their vacation time away from their busy work schedule and

1 in the home that they had not enjoyed since the previous Christmas. Their homecoming
2 celebration was abruptly cancelled.

3 28. At this point, LIBERTY MUTUAL/Brian Cahill assured that the job would
4 be completed in January of 2003. LIBERTY MUTUAL/Cahill indicated that the Mocks'
5 ALE benefit was to expire because at this juncture it was one year from the date of loss.
6 Mr. Cahill informed that if further ALE benefits were incurred KINGSTON would have to
7 pay for the same. This potential prospective burden was in effect passed from LIBERTY
8 MUTUAL to KINGSTON in the same manner as the non-delegable claim investigation
9 duties discussed above.

10 29. The Mock's returned to their job in Austin depressed and concerned at the
11 complete lack of progress on their insurance claim. Before departing, the Mocks were
12 assured by LIBERTY MUTUAL's joint venturer/delegatee, KINGSTON/Mr. McCarthy,
13 that the job would be totally and completely finished by mid-February, up to Code,
14 structurally sound, cosmetically perfect, etc., inside and out, aka "pre-loss condition".
15 Simultaneously, Ms. Mock had been attempting to reach LIBERTY MUTUAL/Cahill and
16 left numerous messages with no return call. The same occurred with respect to
17 KINGSTON/Tim McCarthy - multiple calls, no return call. Ms. Mock was frankly
18 attempting to check up on both LIBERTY MUTUAL and KINGSTON since neither seemed
19 to have any real interest in performing and for the past year provided nothing but lip service
20 and false promises. Eventually, Ms. Mock received a call from Ross Franklin, President
21 and principal owner of KINGSTON who informed that Mr. McCarthy had been terminated
22 by KINGSTON and that Mr. Franklin would be taking over the job. Mr. Franklin had zero
23 knowledge of the job and had done absolutely nothing on the project which understandably
24 and justifiably concerned the Mocks.

25 30. In mid-February, 2003, Ms. Mock again called LIBERTY MUTUAL/Brian
26 Cahill to inform that she would be returning from Austin and in hopes that she might have
27 some place to live upon her return. LIBERTY MUTUAL/Cahill assured Ms. Mock that the
28 home would be ready at that time, that the home was in fact already done, yet LIBERTY

1 MUTUAL/Mr. Cahill had not even been to the home to inspect and insure if this was in fact
2 true, which it was not. In the entire thirteen months of the project, LIBERTY MUTUAL
3 only checked in on the job on three occasions providing superficial efforts at best.
4 LIBERTY MUTUAL's joint venturer and delegatee, KINGSTON was therefore permitted
5 to reap havoc and cause great damage to the home and to the insurance claim of the Mocks.
6 Ms. Mock specifically inquired of LIBERTY MUTUAL: "How do you know that the
7 home is ready if in fact no one from LIBERTY MUTUAL has been down to L.A. to ensure
8 the same?". LIBERTY MUTUAL/Cahill responded by urging Ms. Mock not to worry.
9 Ms. Mock, in direct reliance thereon, indicated that she would proceed home to Los Angeles
10 and would effectuate reactivation of utilities, termination of temporary housing, etc. Both
11 LIBERTY MUTUAL/Cahill and KINGSTON/Franklin assured that the reconstruction and
12 repair of the home were complete.

13 31. On February 22nd, Ms. Mock returned home and was shocked and distraught
14 at the sight of the disastrous condition of her home. The home looked better fourteen
15 months prior before the job was started. Ms. Mock telephoned LIBERTY MUTUAL/Cahill
16 and demanded that Mr. Cahill come down from Sacramento and inspect the property and see
17 what LIBERTY MUTUAL and KINGSTON consider to be "a completed job". Mr. Cahill
18 made an appointment with Ms. Mock and visited the home in Los Angeles on the week of
19 February 25th. A walk-thru was conducted, Mr. Cahill took notes and didn't say much.
20 Subsequently, Mr. Cahill provided what he referred to as a "punch list" and which included
21 what LIBERTY MUTUAL/Cahill felt were the remaining construction tasks to be
22 completed. While this "punch list" did include significant items thus confirming that this
23 job clearly was not complete, the "punch list" was grossly deficient and overlooked
24 substantial construction defects, incomplete work and, in sum, a horrendous and completely
25 unacceptable performance by LIBERTY MUTUAL and KINGSTON. Significant repairs
26 must be implemented on this home and which will render the home uninhabitable.
27 Obviously, such repairs will involve the expenditure of significant sums of money, and
28 which constitute consequential damages.

SECOND CAUSE OF ACTION:
BREACH OF THE IMPLIED COVENANT
OF GOOD FAITH & FAIR DEALING

[Against Defendant **MUTUAL FIRE INSURANCE**
COMPANY and Does 1-100]

32. Paragraphs 1 through 31 are incorporated by reference as if fully set forth within this Cause of Action.

33. As an insurer, defendant LIBERTY MUTUAL owed to the plaintiffs a non-delegable duty to assess, adjust and indemnify its insureds, the plaintiffs, for the full extent of their loss. This duty included the duty to supervise any delegates to whom responsibility for the fulfillment of the insurer's duties was delegated or assigned. LIBERTY MUTUAL owed the plaintiffs a duty to deal fairly and in good faith, to act reasonably and promptly in investigating, evaluating and processing plaintiffs' claim, and to not withhold nor unreasonably delay payment of benefits.

34. In its handling and adjustment of the subject claim, as described above and as will be proven at time of trial, defendant elevated its financial and other interests above those of the plaintiff and subordinated plaintiffs' interests to those of the defendant, engaging in unprofessional, wrongful and tortious conduct, all to the great financial, physical and emotional detriment and harm of plaintiffs as specified herein and as will be proven at trial, including, but not limited to, failure to investigate the claim, ignoring and disregarding evidence in support of the claim, failing to search for evidence in support of the claim, adjusting the claim in concert with a completely incompetent contractor, failing to supervise the claim and the contractor retained to fulfill LIBERTY MUTUAL's duties, completely ignoring the claim in conscious disregard for the rights of the plaintiffs, and other acts which will be revealed in discovery and proven at trial.

35. As a proximate result of the wrongful and tortious conduct of defendant, plaintiffs have endured extreme and enduring emotional distress, physical illness, mental and emotional ailments and traumas during the pendency of the claim and continuing at present.

1 Plaintiffs have invested enormous personal time in fighting with defendant and its
2 representatives, "proving up" their covered claim in the manner of an adversary or legal
3 advocate when they were under no obligation to do so, hiring professionals to assist them
4 in doing the same, and in general, enduring the continued non-adjustment and
5 indemnification of this loss by defendant.

6 36. As a further proximate result of the wrongful and tortious conduct of
7 defendant, plaintiffs have endured the loss of use and enjoyment of their home and
8 associated loss of tranquility, the indignity, frustration and aggravation associated with
9 humans being deprived of the normal use of their home for an unreasonable and lengthy
10 period of time and without proper cause.

11 37. As a further proximate result of the wrongful and tortious conduct of
12 defendants, plaintiffs' ability to function at work has been impeded and harmed, all resulting
13 in emotional distress and financial loss to plaintiffs.

14 38. As a further proximate result of the unreasonable, wrongful and tortious
15 conduct of defendant, plaintiffs have been compelled to hire attorneys in order to compel and
16 secure benefits and performance owed under the subject insurance policy. As a result,
17 plaintiffs have incurred and will incur attorneys' fees and costs and hereby claim such fees
18 and costs as a separate and distinct item of damage, per *Brandt v Superior Court* (1985) 37
19 Cal.3d 813.

20 39. In doing the acts described in this Complaint, defendant acted with conscious
21 disregard of the rights of plaintiffs and did so in an oppressive and despicable manner, all
22 of which warrants the imposition of punitive damages under the guidelines of Civil Code
23 §3294 in an amount sufficient to punish and deter defendant from engaging in similar such
24 conduct in the future. Defendant acted in furtherance of its self interest to avoid payment
25 of policy benefits owed, knowing such acts would harm the plaintiffs greatly. Plaintiffs
26 were viewed and treated as some undesirable customers who had the temerity to file a claim
27 as opposed to valued customers to whom a quasi-fiduciary duty was owed by the defendant
28 insurer who promised peace of mind and protection to its insureds.

1 **THIRD CAUSE OF ACTION:**

2 **NEGLIGENCE**

3 **[Against Defendant KINGSTON Reconstruction & Flooring, Inc. and Does 1-100]**

4 40. Paragraphs 1-39 are incorporated by reference as if fully set forth in this cause
5 of action.

6 41. KINGSTON Reconstruction & Flooring, Inc. was recommended and retained
7 by LIBERTY MUTUAL for the dual purpose of fulfilling LIBERTY MUTUAL's duty to
8 assess, adjust and indemnify for the catastrophic and insured loss sustained by LIBERTY
9 MUTUAL's insureds, plaintiffs herein, and to repair plaintiffs' home.

10 42. KINGSTON failed miserably in fulfillment of any and all of its duties. The
11 job was never completed. The job was implemented in an untimely fashion.
12 Misrepresentations about the status and progress of the job were continually made by
13 KINGSTON. KINGSTON in fact caused damage to this property in implementing
14 substandard and shoddy workmanship thus requiring a complete re-work of the entire
15 project. The home reflects complete and total incompetence and unprofessionalism on the
16 part of KINGSTON.

17 43. KINGSTON has also filed a lien or encumbrance against the plaintiffs'
18 property, even through plaintiffs have authorized payment of sums allegedly owed via
19 insurance proceeds held in trust at Washington Mutual bank. This lien constitutes an abuse
20 of process, is unwarranted and has inhibited the plaintiffs' ability to refinance the subject
21 property due to the cloud on the title caused by KINGSTON. The lien is baseless under the
22 circumstances and was filed without probable cause.

23 44. As a proximate result of the foregoing, plaintiffs have sustained legally
24 compensable damages to be proven at time of trial including, but not limited to, construction
25 defects, diminution in value to their property, construction costs which will be incurred in
26 re-repairing this home and the fixing the shoddy workmanship of KINGSTON, professional
27 fees of engineers and contractors to determine the extent of damage caused by KINGSTON,
28 and other damages to be proven at time of trial.

1 WHEREFORE, plaintiffs pray for judgment as follows:

2 **As to Defendant LIBERTY MUTUAL INSURANCE COMPANY**


- 3 1. For contractual benefits and special damages as will be proven at trial;
4 2. For general and compensatory damages according to proof;
5 3. For pre-judgment interest;
6 4. For punitive/exemplary damages according to proof;
7 5. For reimbursement of attorneys fees; and
8 6. For such other relief as this Court deems just and proper.

9 **As to Defendant KINGSTON RECONSTRUCTION & FLOORING, INC.**

- 10 7. For consequential special damages as will be proven at trial;
11 8. For general damages as will be proven at trial;
12 9. For such other relief as this Court deems just and proper.

13
14 DATED: June 10, 2003

ENGSTROM, LIPSCOMB & LACK

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16 By: 
17 BRIAN J. HEFFERNAN
18 Attorneys for Plaintiffs
19 RALPH MOCK and GLORIA MOCK
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982.2(b)(1)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, address, telephone number, and address): BRIAN J. HEFFERNAN, ESQ. ENGSTROM, LIPSCOMB & LACK 10100 Santa Monica Boulevard, 16th Floor Los Angeles, CA 90067-4107 TELEPHONE NO.: 310-552-3800 FAX NO.: 310-552-9434 ATTORNEY FOR (Name): RALPH and GLORIA MOCK		132845 FILED LOS ANGELES SUPERIOR COURT JUN 11 2003 JOHN A. CLARKE, CLERK <i>C. L. Coleman</i> BY C. L. COLEMAN, DEPUTY
INSERT NAME OF COURT, JUDICIAL DISTRICT, AND BRANCH COURT, IF ANY: LOS ANGELES COUNTY SUPERIOR COURT		CASE NUMBER: EC 297264
CASE NAME:		
CIVIL CASE COVER SHEET <input type="checkbox"/> Limited <input checked="" type="checkbox"/> Unlimited	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 1811)	ASSIGNED JUDGE:

Please complete all five (5) items below.

1. Check one box below for the case type that best describes this case:

<input type="checkbox"/> Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Other P/DPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/DPD/WD (23) <input type="checkbox"/> Non-PI/DPD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (e.g., discrimination, false arrest) (08) <input type="checkbox"/> Defamation (e.g., slander, libel) (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (e.g., legal malpractice) (25) <input type="checkbox"/> Other non-PI/DPD/WD tort (35) <input type="checkbox"/> Employment <input type="checkbox"/> Wrongful termination (36)	<input type="checkbox"/> Other employment (15) Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (e.g., money owed, open book accounts) (09) <input checked="" type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (e.g., quiet title) (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11)	<input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Claims involving mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Toxic tort/Environmental (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (e.g., sister state, foreign, out-of-county abstracts) (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 1800 of the California Rules of Court. If case is complex, mark the factors requiring exceptional judicial management:

- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination and related actions pending in one or more courts in other counties, states or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial post-disposition judicial disposition |

3. Type of remedies sought (check all that apply):

- a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): Three

5. This case ☐ is ☒ is not a class action suit.

Date: June 10, 2003

BRIAN J. HEFFERNAN

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate, Family, or Welfare and Institutions Code). (Cal. Rules of Court, rule 982.2.)
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 1800 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet shall be used for statistical purposes only.

SHORT TITLE: MOCK v. LIBERTY MUTUAL INSURANCE CO., et al.	CASE NUMBER 8C297264
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**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required in all new civil case filings in the Los Angeles Superior Court

I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL 10 ☐ HOURS/☒ DAYS.

II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to No. III, Pg. 4):

- 1 After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column 1, the Civil Case Cover Sheet case type you selected.
- 2 Check one Superior Court type of action in Column 2 below which best describes the nature of this case.
- 3 In Column 3, circle the reason for the court location choice that applies to the type of action you have checked.

Applicable Reasons for Choosing Courthouse Location (See Column 3 below)

1. Class Actions must be filed in the County Courthouse, Central District.
2. May be filed in Central (Other county, or no Bodily Inj/Prop. Damage)
3. Location where cause of action arose
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office.

4 Fill in the information requested on page 4 in item III; complete item IV. Sign the certificate.

	-1- Civil Case Cover Sheet Category No.	-2- Type of Action (Check only one)	-3- Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Dam./Wrongful Death Is this an uninsured motorist case? <input type="checkbox"/> Yes <input type="checkbox"/> No	1., 2., 4.
	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestosis - Personal Injury/Wrongful Death	2. 2.
Other PI/PD/WD Tort	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4. 1., 2., 4.
	Other PI/PD/WD (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/PD/WD (e.g., assault, vandalism, etc.)	1., 2., 4.
		<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 2., 3.
<input type="checkbox"/> A7271 Negligent Infliction of Emotional Distress		1., 2., 3.	
Non-PI/PD/WD Tort	<input type="checkbox"/> A7220 Other Personal Injury/Property Dam./Wrongful Death	1., 2., 4.	
	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
	Intellectual Property (19)	<input type="checkbox"/> A6016 Intellectual Property	2., 3.

CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION LASC Rule 2.0

Non-PI/PD/WD Tort
Employment
Contract
Real Property
Judicial Review Unlawful Detainer

SHORT TITLE: MOCK v. LIBERTY MUTUAL INSURANCE CO., et al.		CASE NUMBER
-1- Civil Case Cover Sheet Category No.	-2- Type of Action (Check only one)	-3- Applicable Reasons - See Step 3 Above
Prof. Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Wrongful Termination (35)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not UD or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff(no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input checked="" type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Emmt Dom/Inv. Cond. (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property(not em. domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration Award (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm Arbitration	2., 5.

Judicial Review (Cont'd.)

Provisionally Complex Litig.

Enforcement of Judgment

Misc. Civ. Cmplts

Misc. Civil Petitions

SHORT TITLE: MOCK v. LIBERTY MUTUAL INSURANCE CO., et al.		CASE NUMBER
-1- Civil Case Cover Sheet Category No.	-2- Type of Action (Check only one)	-3- Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Oth. Jud. Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Reg. (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litig. (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Tox. Tort/Environm (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Ins Coverage Clms from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership/Corp. Governance(21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9 2., 3., 9 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE: MOCK v. LIBERTY MUTUAL INSURANCE CO., et al.	CASE NUMBER
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-4-

III. Statement of Location: Enter the address of the accident, party residence or place of business, performance, or other circumstance indicated in No. II., item 3 on Page 1 as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER ITEM 3- WHICH APPLIES IN THIS CASE <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 23725 SYLVAN STREET	
CITY: WOODLAND HILLS	STATE: CA	ZIP CODE: 91367	

IV. Certificate/Declaration of Assignment: The undersigned hereby certifies and declares that the above entitled matter is properly filed for assignment to the civil courthouse in the Central District of the Los Angeles Superior Court under Section 392 et seq., Code of Civil Procedure and Rule 2(b), (c) and (d) of this court for the reason checked above. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and this declaration was executed on June 10, 2003 at Los Angeles California.

(date) (city)

Brian J. Heffernan

(SIGNATURE OF ATTORNEY/FILING PARTY)
BRIAN J. HEFFERNAN

New Civil Case Filing Instructions

This addendum form is required so that the court can assign your case to the correct courthouse location in the proper district for filing and hearing. It satisfies the requirement for a certificate as to reasons for authorizing filing in the courthouse location, as set forth in Los Angeles Superior Court Local Rule 2.0. It must be completed and submitted to the court along with the Civil Case Cover Sheet and the original Complaint or Petition in ALL civil cases filed in any district (including the Central District) of the Los Angeles County Superior Court. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

PLEASE HAVE THE FOLLOWING DOCUMENTS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk (Summons forms available at the Forms Counter.).
3. Civil Case Cover Sheet form required by California Rule of Court 982.2(b)(1), completely filled out (Cover Sheet forms available at the Forms Counter).
4. This "Addendum to Civil Case Cover Sheet" form [Superior Court Form Number 982.2(b)(1)A, revised 7/99], completely filled out (Item II. does not apply in limited civil cases) and submitted with the Civil Case Cover Sheet.*
5. Payment in full of the filing fee (unless filing on behalf of state or local government or no fee is due for the type of case being filed) or an Order of the Court waiving payment of filing fees in forma pauperis (fee waiver application forms available at the Filing Window)
6. In case of a plaintiff or petitioner who is a minor under 18 years of age, an Order of the Court appointing an adult as a guardian ad litem to act on behalf of the minor (Guardian ad Litem Application and Order forms available at the Forms Counter).
7. Additional copies of documents presented for endorsement by the Clerk and return to you.

* With the exception of unlimited civil cases concerning property damage, bodily injury or wrongful death occurring in this County, Labor Commissioner Appeals, and those types of actions required to be filed in the Central District by Local Court Rule 2(b), all unlimited jurisdiction civil actions may be optionally filed either in the Central District or in whichever other court location the rule would allow them to be filed. When a party elects to file an unlimited jurisdiction civil action in Central District that would also be eligible for filing in one or more of the other court locations, this form must still be submitted with location and assignment information completed.